

IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA

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ROCHESTER DRUG CO-OPERATIVE, INC., :  
on behalf of itself and all others similarly :  
situated, :

Plaintiff :

v. :

ACTAVIS ELIZABETH, LLC., *et al.*, :  
Defendants. :

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CIVIL ACTION NO. 16-6672

ORDER

AND NOW, this 7th day of February 2017, upon consideration of the attached  
Stipulation to Set Deadlines for Responsive Pleadings, it is hereby **ORDERED** that the  
Stipulation is **APPROVED**.

It is so **ORDERED**.

BY THE COURT:

  
CYNTHIA M. RUFÉ, J.

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(FAX)

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**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

ROCHESTER DRUG CO-OPERATIVE,  
INC., on behalf of itself and all others similarly  
situated,

Plaintiff,

v.

ACTAVIS ELIZABETH, LLC, TEVA  
PHARMACEUTICALS USA, INC., PLIVA,  
INC., IMPAX LABORATORIES, INC.,  
MYLAN, INC., MYLAN  
PHARMACEUTICALS, INC., UDL  
LABORATORIES, INC., ENDO  
INTERNATIONAL PLC, PAR  
PHARMACEUTICAL HOLDINGS, INC.,  
HERITAGE PHARMACEUTICALS, INC.,  
BRECKENRIDGE PHARMACEUTICALS,  
INC., and UPSHER-SMITH  
LABORATORIES, INC.,

Defendants.

Civil Action No. 2:16-cv-06672

The Honorable Cynthia M. Rufe

**JOINT STIPULATION AND [PROPOSED ORDER] TO SET DEADLINES FOR  
RESPONSIVE PLEADINGS**

WHEREAS, Plaintiff Rochester Drug Co-operative, Inc. ("Plaintiff") has filed a putative class action complaint in this District alleging price fixing with respect to Propranolol against Defendants Actavis Elizabeth, LLC, Teva Pharmaceuticals USA, Inc., Pliva, Inc., Impax Laboratories, Inc., Mylan, Inc., Mylan Pharmaceuticals, Inc., UDL Laboratories, Inc., Endo International PLC, Par Pharmaceutical Holdings, Inc., Heritage Pharmaceuticals, Inc.,

Breckenridge Pharmaceuticals, Inc.,<sup>1</sup> and Upsher-Smith Laboratories, Inc. (“Defendants,” and together collectively with Plaintiff, the “Parties”).

WHEREAS, on January 5, 2017, Plaintiff filed a motion with the Judicial Panel on Multidistrict Litigation (“JPML”) for Transfer of Related Actions to the Eastern District of Pennsylvania for Coordinated or Consolidated Pretrial Proceedings as Part of MDL No. 2724 Pursuant to 28 U.S.C. § 1407 (the “Plaintiff’s MDL Motion”);

WHEREAS, responses to the Plaintiff’s MDL Motion were filed on January 30, 2017, and the JPML has not yet set the Motion for hearing;

WHEREAS, to economize both judicial and Parties’ resources pending the JPML’s decision on the Motion, the Parties believe and agree that Defendants’ time to move to dismiss, answer, or otherwise respond to Plaintiff’s complaint in this action should be extended until after the JPML has ruled on the pending Motion, it has been determined which court will preside over: the above-captioned Action, *FWK Holdings, LLC v. Actavis Elizabeth, LLC, et al*, 16-9901 (S.D.N.Y.), *Cesar Castillo v. Actavis Elizabeth, LLC, et al*, 17-0078 (S.D.N.Y.), and *Plumbers & Pipefitters Local 178 Health & Welfare Trust Fund v. Actavis Holdco U.S., Inc., et al*, 17-cv-0144 (E.D. Pa.), or any subsequently-filed antitrust putative class action concerning the pricing of Propranolol (collectively, the “Propranolol Actions”), and any consolidated amended complaint has been filed;

NOW, THEREFORE, pursuant to Local Rule 7.4, the parties hereby stipulate, and the Court orders, as follows:

1. Defendants’ time to answer, move or otherwise respond to Plaintiff’s complaint shall be extended until after disposition of the JPML proceeding, as provided below:

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<sup>1</sup> The correct corporate name for this entity is Breckenridge Pharmaceutical, Inc.

- a. If the JPML transfers all the Propranolol Actions to a single district for coordinated or consolidated pretrial proceedings pursuant to 28 U.S.C. § 1407, unless otherwise provided by the transferee court, Defendants shall, as permitted by Federal Rule 12, answer, move or otherwise plead in response to the complaint within 45 days after either: (i) the plaintiffs in the consolidated or coordinated actions serve a Consolidated or Amended Class Action Complaint, or (ii) the plaintiffs in the consolidated or coordinated actions serve written notice that they will not file a consolidated or amended complaint.
- b. If the JPML denies the motions to transfer these cases and all related civil actions to a single district for coordinated or consolidated pretrial proceedings, Defendants shall, as permitted by Federal Rule 12, answer, move or otherwise plead in response to Plaintiff's complaint within 45 days of the later of (i) service of the JPML ruling; (ii) a decision on any motion pursuant to 28 U.S.C. §1404 that may be filed; or (iii) service of a Consolidated or Amended Class Action Complaint to which Plaintiff is a party.

2. Plaintiff shall have 45 days from the filing and service of any motions to dismiss to file and serve any memoranda in opposition thereto. Any reply memoranda shall be filed 30 days after service and filing of any opposition memoranda. If a filing deadline falls on a weekend or federal holiday, the memorandum shall be filed on the first business day following such weekend or holiday. No extension among Plaintiff and Defendants has been previously requested or granted by the Court. Defendants reserve the right to file a motion to sever parties, claims, or allegations in response to the complaint or at any time during the litigation.

3. Prior to the filing of any motion to dismiss by Defendants, Plaintiff and Defendants shall meet and confer regarding appropriate page limitations for memoranda in support of and in opposition to such motions, and for any replies, and submit to the Court a proposed order and stipulation regarding page limitations, or if the Parties cannot agree on page limitations, a proposed order identifying the differing proposals and a brief explanation by Plaintiff and Defendants, as a group, of the reasons therefor. Defendants will make good faith efforts to coordinate and consolidate common legal arguments, but reserve the right to file individual briefs to allow for Defendant specific arguments.

4. Defendants, other than Endo International plc, agree either that they have been properly served with process in this action or that they waive service of process under Rule 4(d) of the Federal Rules of Civil Procedure. Defendants otherwise expressly reserve the right to challenge the complaint and any Consolidated or Amended Class Action Complaint, on any and all other grounds, including personal jurisdiction.

**IT IS SO STIPULATED AND ORDERED.**

Dated: February 7, 2017

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APPROVED BY THE COURT:



**The Honorable Cynthia M. Rufe**